

REMARKS/ARGUMENTS

Status of the Claims

Claims 1 to 3, 7 to 12, 36 to 38, 41, and 43 to 71 were previously pending. Claims 52 to 54, 58 and 59 are presently amended. After entry of these amendments, claims 1 to 3, 7 to 12, 36 to 38, 41, and 43 to 71 will be pending and presented for examination.

Claims 1 to 3, 6 to 12, 36 to 38, and 43 to 47, 48 to 58, and 60 to 71 stand rejected for alleged non-statutory double patenting of the obviousness type over claims 1 to 10 of U.S. Patent No. 6,746,870.

Claim 59 stands rejected under 35 U.S.C. §101 as allegedly embracing non-statutory subject matter in the form of human embryonic stem cells.

Claim 59 stands rejected also under 35 U.S.C. §112, first paragraph, for alleged lack of enablement of the breadth of the recited embryonic stem cell subject matter.

The Applicants respond further to these rejections below.

Support for the Amendments to the Claims

Claim 52 was amended to set forth eucaryotic somatic cells. Support for this subject matter is found *inter alia* in the specification at page 19, line 19 to 21.

Claim 53 was amended to set forth a non-human eucaryotic cell, thereby incorporating the limitation of its dependent claim, claim 58. Support for this subject matter is as set forth for claim 58 in the previous Amendment.

Claim 58 was amended to set forth an animal cell. Support for this subject matter is found in the specification at page 14, line 15.

Claim 59 was amended to set forth a mouse embryonic stem cell. This subject matter finds support in the specification at page 22, line 5.

Accordingly, the Applicants believe the amendments to the claims add no new matter and respectfully request their entry.

Response to the rejection of claims 1 to 3, 6 to 12, 36 to 38, and 43 to 47, 48 to 58, and 60 to 71 for alleged nonstatutory double patenting of the obviousness type over claims 1 to 10 of U.S. Patent No. 6,746,870.

As previously indicated, the Applicants provide herewith a suitable terminal disclaimer. Accordingly, the Applicants respectfully request that the above grounds for rejection be reconsidered and withdrawn.

Response to the rejection of claim 59 under 35 U.S.C. §101 as allegedly embracing non-statutory subject matter in the form of human embryonic stem cells.

Applicants have amended claim 59 to set forth "a mouse embryonic stem cell." The Applicants have also amended the corresponding base claim, claim 53, to set forth a non-human eucaryotic cell in culture. Applicants believe the above amendments resolve this concern and respectfully request reconsideration and withdrawal of this grounds for rejection.

Response to the rejection of claim 59 under 35 U.S.C. §112, first paragraph, for alleged lack of enablement of the breadth of the recited embryonic stem cell subject matter.

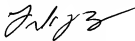
Without acquiescing on the merits and in order to expedite prosecution of the application, the Applicants have amended claim 59 to set forth the subject matter which the Action indicated to be enabled. Accordingly, the Applicants respectfully request that the above grounds for rejection be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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